

if such product is from Australia, Canada, Jordan, Korea, Mexico, Morocco, or Singapore.

(d) *Perishable agricultural product.* An entity of the type described in paragraph (a) of this section that represents a domestic industry producing a perishable agricultural product may petition for provisional relief with respect to imports of such product from Australia, Canada, Jordan, Korea, Mexico, Morocco, or Singapore, but only if such product has been subject to monitoring by the Commission for not less than 90 days as of the date the allegation of injury is included in the petition.

(e) *Korean motor vehicle article.* An entity of the type described in paragraph (a) of this section that is filing a petition with respect to a product from Korea shall state whether it represents a domestic industry producing an article that is like or directly competitive with a Korean motor vehicle article.

[77 FR 3926, Jan. 26, 2012]

§ 206.34 Contents of petition.

A petition under this subpart D shall include specific information in support of the claim that, as a result of the reduction or elimination of a duty provided for under a free trade agreement listed in § 206.33(b), an article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the article constitute a substantial cause of serious injury, or (except in the case of a Canadian article) threat thereof, to the domestic industry producing an article that is like or directly competitive with the imported article. If provisional relief is requested in a petition concerning an article from Australia, Canada, Jordan, Korea, Mexico, Morocco, or Singapore, the petition shall state whether provisional relief is sought because *critical circumstances* exist or because the imported article is a *perishable agricultural product*. In addition, a petition filed under this subpart D shall include the following information, to the extent that such information is publicly available from governmental or other sources, or best estimates and the basis

therefor if such information is not available:

(a) *Product description.* The name and description of the imported article concerned, specifying the United States tariff provision under which such article is classified and the current tariff treatment thereof, and the name and description of the like or directly competitive domestic article concerned;

(b) *Representativeness.* (1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic article is produced;

(2) The percentage of domestic production of the like or directly competitive domestic article that such represented firms and/or workers account for and the basis for claiming that such firms and/or workers are representative of an industry; and

(3) The names and locations of all other producers of the domestic article known to the petitioner;

(c) *Import data.* Import data for at least each of the most recent 5 full years that form the basis of the claim that the article concerned is being imported in increased quantities in absolute terms;

(d) *Domestic production data.* Data on total U.S. production of the domestic article for each full year for which data are provided pursuant to paragraph (c) of this section;

(e) *Data showing injury.* Quantitative data for each of the most recent 5 full years indicating the nature and extent of injury to the domestic industry concerned:

(1) With respect to serious injury, data indicating:

(i) A significant idling of production facilities in the industry, including data indicating plant closings or the underutilization of production capacity;

(ii) The inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit; and

(iii) Significant unemployment or underemployment within the industry; and/or

(2) With respect to the threat of serious injury, data relating to:

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(i) A decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment);

(ii) The extent to which firms in the industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development;

(iii) The extent to which the U.S. market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(3) Changes in the level of prices, production, and productivity.

(f) *Cause of injury.* An enumeration and description of the causes believed to be resulting in the injury, or threat thereof, described under paragraph (e) of this section, and a statement regarding the extent to which increased imports of the subject article are believed to be such a cause, supported by pertinent data;

(g) *Relief sought and purpose thereof.* A statement describing the import relief sought, including the type, amount, and duration, and the specific purposes therefor, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition;

(h) *Efforts to compete.* A statement on the efforts being taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

(i) *Critical circumstances.* If the petition alleges the existence of critical circumstances, a statement setting forth the basis for the belief that there is clear evidence that increased imports (either actual or relative to domestic production) of the article are a substantial cause of serious injury, or the threat thereof, to the domestic industry, and that delay in taking action would cause damage to that industry

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that would be difficult to repair, and a statement concerning the provisional relief requested and the basis therefor.

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§ 206.35 Time for determinations, reporting.

(a) *In general.* The Commission will make its determination with respect to injury within 120 days (180 days if critical circumstances are alleged) after the date on which the investigation is initiated. The Commission will make its report to the President no later than 30 days after the date on which its determination is made.

(b) *Perishable agricultural product.* In the case of a request in a petition for provisional relief with respect to a perishable agricultural product that has been the subject of monitoring by the Commission, the Commission will report its determination and any finding to the President not later than 21 days after the date on which the request for provisional relief is received.

(c) *Critical circumstances.* If petitioner alleges the existence of critical circumstances in the petition, the Commission will report its determination regarding such allegation and any finding on or before the 60th day after such filing date.

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§ 206.36 Public report.

Upon making a report to the President of the results of an investigation to which this subpart D relates, the Commission will make such report public (with the exception of information which the Commission determines to be confidential) and cause a summary thereof to be published in the FEDERAL REGISTER.

§ 206.37 Limited disclosure of certain confidential business information under administrative protective order.

Except in the case of an investigation under the United States-Jordan Free Trade Area Implementation Act or the NAFTA, the Secretary shall make available to authorized applicants, in accordance with the provisions of